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Docket 86950F-P
Customer No. 01333

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

David C. Wilkins, et al

TECHNIQUES FOR SYNCHRONIZING ANY OF A PLURALITY OF ASSOCIATED MULTIMEDIA ASSETS IN A DISTRIBUTED SYSTEM

Serial No. 09/724,775

Filed November 28, 2000

Group Art Unit: 2622
Confirmation No. 7663
Examiner: Joseph R. Pokrzywa

I hereby certify that this correspondence is being deposited today with the United States Postal Service as first class mail in an envelope addressed to Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Paula West
Paula West

8.8.05
Date

Mail Stop APPEAL BRIEF-PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

Sir:

APPEAL BRIEF TRANSMITTAL

Enclosed herewith is Appellants' Appeal Brief for the above-identified application.

The Commissioner is hereby authorized to charge the Appeal Brief filing fee to Eastman Kodak Company Deposit Account 05-0225. A duplicate copy of this letter is enclosed.

Respectfully submitted,

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Enclosures
If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.

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APPEAL BRIEF PURSUANT TO 37 C.F.R. 41.37 and 35 U.S.C. 134

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APPELLANT'S BRIEF ON APPEAL

Appellants hereby appeal to the Board of Patent Appeals and Interferences from the Examiner's Final Rejection of claims 1-18 which was contained in the Office Action mailed April 14, 2005.

A timely Notice of Appeal was mailed July 11, 2005.

Real Party In Interest

As indicated above in the caption of the Brief, the Eastman Kodak Company is the real party in interest.

Related Appeals And Interferences

No appeals or interferences are known which will directly affect or be directly affected by or have bearing on the Board's decision in the pending appeal.

Status Of The Claims

Claims 1-18 are pending in the application. These claims have been rejected and are being appealed.

Appendix I provides a clean, double spaced copy of the claims on appeal.

Status Of Amendments

The claims stand as indicated in Appendix I.

Summary of Claimed Subject Matter

The claimed subject matter pertains to method and apparatus for automatically synchronizing each of a set of distributed multimedia assets, such as digital images, in a distributed network. In the context of the invention, as it is described principally in pages 23-30 of the specification and shown in Fig. 3-4, a local computer location, represented by digital image processing engine 212 and host computer 402-1, and one or more remote computer locations, represented by host computers 402-1 through 402-n, imaging appliances 403-1 through 403-n and server computer 404, are interconnected via a network 406 to form a distributed network. Further, within the context of the invention, a multimedia asset created on the local computer is distributed to one or more of the remote computers to thereby create a set of distributed multimedia assets as set forth in the preamble of

the claims. The phrase "distributed multimedia asset" is defined by Applicants at page 29, lines 21-23, as being, "...(a) multimedia asset (that) has been distributed amongst at least one other device, be it a local or non-local (i.e., remote) device." (Emphasis added) At this point, the distributed assets are all of the same version.

As recited in the bodies of independent claims 1 and 11, a particular one of the set of distributed assets is modified (e.g. the local asset). As a result, the other asset(s) in the set of distributed assets now differ from the one particular modified asset in the set. As further recited in the claims, the others of the set of distributed assets are automatically synchronized based upon the modifications to the one particular asset in the set. As explained in the specification (page 29, lines 1-7), this synchronization is preferably accomplished with the aid of an update edit list, representing the modifications to the local asset, which is communicated through the distributed network and is used to synchronize the other assets with the modified asset and, alternatively, by sending the modified photos themselves, (i.e., resultant images with the edits applied).

Grounds of Rejection to be Reviewed on Appeal

The following issues are presented for review by the Board of Patent Appeals and Interferences:

1. Claims 1-18 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,573,927 B2 – Parulski *et al.* (hereinafter referred to as Parulski '927.)

Arguments

Rejection of claims 1-18 under 35 USC § 102(e).

At issue in this rejection is Examiner's contention that a reasonable interpretation of terminology in the claim reads on Parulski '927. Applicants' contention is that Examiner's interpretation is strained, at best, conflicts with specific claim language as defined in the specification and is outside the bounds of the context of the invention.

In contrast to Examiner's unsupported interpretation, Applicants' interpretation of the claim terminology, which clearly differentiates from the reference, is supported, not only by express definitions stated by Applicants in the specification, but also by its consistency with the context of the invention.

The Parulski '927 reference discloses a print order concept that focuses on apparatus that allows the camera user to create a print order ("utilization file") at the time of image capture. This print order file is recorded on a memory card which is then taken or sent to a print fulfillment order dealer for creation of the prints pursuant to the order instructions in the print order. The print order file may also be communicated via an intranet connection or via the Internet thus dispensing with physical handling of the order file' recording medium. In the words of the patentee, the invention:

> "... is a way for camera users to quickly and easily compose 'print orders' and 'transmission orders' and/or 'electronic albuming' orders, at the time they capture their images." (Emphasis added) (col. 1, line 60-64)
>
> ***
>
> "... the camera and system of our invention meets this need by allowing the user to select 'downstream' services at the time of capture, using the camera's LCD screen and user interface." (Emphasis added) (col. 2, lines 1-4)

Implementation of the invention disclosed in Parulski '927, involves the use of a PC program file, provided with the camera, that enables the user to create customized order file information which can be uploaded to the camera internal memory or removable memory card as an order "utilization" file with pointers to the captured images that are to be the subject of the print orders.(col. 3, lines 5-24). For printing, the user transfers the print order to the image fulfillment provider who converts the image files to print formats (and, in the process, modifies the image files if required by the print order).

The sequence of events described in the patent reference entails the user's creation of a digital file stored on a memory card or as an order file on the user's PC. This file incorporates the images which are the subject of the order and the "utilization" file which details the user's instructions for the order, e.g. number of prints, print size, print border, etc.. The order is transferred to the print fulfillment provider by any one of several alternatives, e.g. by communication directly to a print kiosk via a dock connection, by taking or sending the removable memory card to the print provider or by communication of the order file via a modem through a network connection. "The provider reads the information, fills the print order, and returns the print order either for pick-up by the user or by mail." (col. 3,

lines 45-64). It is important to note here that the provider receives the image for the first time only after the user has already modified the image (or created modification instructions to guide the provider's operation). Thus there is no synchronization, automatic or otherwise, of an image in a previously distributed set of unmodified images.

The reference also discloses an "albuming" feature (col. 4, lines 43-58) in which a group of images, with or without modifications are stored collectively as an album, either at the camera user's home computer or at a central album service provider, along with instructions on who may access the album to obtain copies (electronic or print) of selected images. The images may optionally include text selected by the user to accompany the images. Once cached in the album storage, they are available for access by authorized users. As is the case with the print order procedure, the images are sent for the first time, either modified or accompanied by a "utilization" file for storage at the album site. Even if these first-time-received images are modified at the album site, similarly to the print order procedure, there is no synchronization of images in a previously distribute set of unmodified image.

As best understood by Applicants, Examiner's position regarding the self-described "reasonable" interpretation of the claims can be succinctly summarized by the view that sending an image to a remote location (e.g. service provider) with modification instructions to be implemented on the just-arrived image meets a "reasonable" interpretation of the claim language, to wit, that such operations constitutes synchronizing of the so-called "distributed" image with the changes created by the user at the originating site.

The problem with this position is that it does not take in account the claim language as a whole, does not consider the terminology of the claim in the context of the invention as described in the specification and does not give credence to Applicants' express definitions found in the specification.

It is well established claim interpretation law that the claims must be interpreted in light of the specification which sets the context of the invention and in light of Applicants' express definitions of terminology found in the claims.

Using claim 1, for example, the preamble reads as follows:

> "1. In a distributed network, a method for automatically synchronizing each of a set of distributed multimedia assets, comprising:"

The preamble sets the stage for and gives meaning to the claimed invention. The language of this preamble establishes the pre-existence of a "set of distributed assets" in "a distributed network". As pointed out above in the Summary section, Applicants expressly define the term "distributed multimedia asset as being, "...(a) multimedia asset (that) has been distributed amongst at least one other device, be it a local or non-local (i.e., remote) device." (Emphasis added) Thus the preamble sets forth the described context of the invention as one in which a "set" (more than one) of multimedia assets pre-exists on a distributed network. The pre-existence of this set of distributed assets before the invocation of the operative terms of the claims is the *raison d'etre* for the claimed invention. It sets the platform for which the claimed invention is needed and on which the claimed invention operates. As Applicants state in the background section of the specification:

> "An additional problem relates to the fact that if there are a number of associated image copies distributed amongst a group interconnected devices and any one of the images is changed, then there is no way to automatically update, or synchronize, the others to coincide with the changed image. For example, if a particular digital image is updated to new version of the digital image, then all other related digital images must also be updated to the most current version." (page 5, lines 16-19) (Emphasis added)

In other words, the pre-existence of ("are") a set of distributed images creates the problem when one of the images is subsequently modified ("and any one of the...(distributed)...images is changed").

With this understanding of the meaning of the phrase "a set of distributed images", namely that it is a pre-existing set of distributed images, it becomes patently clear that the only reasonable interpretation of the recitals in the body of the claim is that the modifying and automatic synchronizing steps (or functions) in the body of the claim are performed on image that pre-exist in the distributed network.

That this is the only reasonable interpretation of the claim language is buttressed by the instances of Applicants' description of the invention in the specification. For example, in the describing of its application to a distributed album grouping of images (page 28, line to page 29, line 4):

"Consider the situation where a user has a set of associated digital photos in the form of a photo album, for example, that reside (sic) on a local device ... At some point in time, the user uploads or otherwise transfers the photos to a linked remote device (or devices) ... Subsequent to the initial upload event, the user modifies one, or more, of the photos creating in the process an update edit list for each (of) the modified photo(s). At this point all remotely stored versions of the modified photo(s) must be synchronized in order to maintain coherency between the variously distributed photos (i.e., they must all reflect the modifications made to the locally stored photo). This synchronization can be accomplished efficiently and automatically by, in one embodiment, transparently transferring the update edit list to all those linked remote devices onto which all the associated photo(s) reside." (Emphasis added)

Another example of the pre-existent nature of the "set of distributed multimedia assets is found in the general description of the invention process which is illustrated in Fig. 4: (page 29, line 13 to page 30, line 5)

"...The process 450 begins at 52 by modifying a multimedia asset. ... Once the multimedia asset has been modified, an update edit list reflecting only those modifications is generated at 454. ...Once the update edit list is generated, a determination is made whether or not the modified multimedia asset is a distributed multimedia asset at 456. By a distributed multimedia asst it is meant that the multimedia asset has been distributed amongst at least one other device, be it a local or no-local (i.e. remote) device. If it is determined that the modified multimedia asset is not distributed, then the synchronization process 400 is not needed and processing stops, otherwise, the distributed multimedia assets are automatically synchronized at 458. By synchronized, it is meant that all distributed multimedia assets are modified according to the modifications performed at 402." (Emphasis added)

Thus, for the foregoing reasons, it is urged that the only reasonable interpretation of the language in claims is one in which a pre-existing set of distributed multimedia assets is operated on by the modifying and automatic

synchronizing steps or functions recited in the claims, something not disclosed or even suggested by the disclosure of the Parulski '927 reference of an order fulfillment process.

Independent claim 11 is the apparatus form of the claimed invention and the foregoing discussion of the interpretation of the claim language as applying the modifying and automatic synchronization of a pre-existing set of distributed assets applies with equal force and persuasiveness to the language of claim 11.

Claims 2-10 are dependent from claim 1 and claims 11-18 are dependent from claim 11. They are therefore believed to be patentable of the cited reference for the same reasons as given above.

Summary

In summary, Applicants respectfully submit that the present invention is patentably distinct over the cited prior art.

Conclusion

For the above reasons, Appellants respectfully request that the Board of Patent Appeals and Interferences reverse the rejection by the Examiner and mandate the allowance of Claims 1-18.

Respectfully submitted,

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Appendix I - Claims on Appeal

1. In a distributed network, a method for automatically synchronizing each of a set of distributed multimedia assets, comprising:

(a) modifying a particular one of the set of distributed multimedia assets; and

(b) automatically synchronizing others of the set of distributed multimedia assets based upon (a).

2. A method as recited in claim 1, further comprising:

(c) generating an update edit list corresponding to (a).

3. A method as recited in claim 2, wherein the automatically synchronizing comprises:

(d) forwarding the update edit list to the others of the set of distributed multimedia assets; and

(e) modifying each of the others of the set of distributed multimedia assets based upon the forwarded update edit list.

4. A method as recited in claim 1, further comprising:

(f) generating a resultant multimedia asset corresponding to (a), wherein the resultant multimedia asset is formed of a digital negative of the particular one of the set of multimedia assets and a corresponding edit list, wherein the edit list represents all modifications made to the digital negative.

5. A method as recited in claim 4, wherein the automatically synchronizing comprises:

(g) replacing each of the others of the set of distributed multimedia assets with the resultant multimedia asset.

6. A method as recited in claim 1, wherein the multimedia asset is a digital image.

7. A method as recited in claim 6, wherein the digital image is one of a plurality of associated digital images.

8. A method as recited in claim 7, wherein the plurality of associated digital images take the form of an album.

9. A method as recited in claim 1, wherein the edit list is one of a number of edit lists included in a catalog file.

10. A method as recited in claim 9, where each of the number of edit lists included in the catalog file are associated with a particular multimedia asset.

11. In a distributed network, an apparatus for automatically synchronizing each of a set of distributed multimedia assets, comprising:

a first means for modifying a particular one of the set of distributed multimedia assets; and

a second means for automatically synchronizing others of the set of distributed multimedia assets based upon coupled to the first means.

12. In a distributed network, an apparatus as recited in claim 11, further comprising:

a third means for generating an update edit list corresponding to coupled to the first means based upon the modifying.

13. In a distributed network, an apparatus as recited in claim 12, wherein the automatically synchronizing comprises:

a fourth means coupled to the third means for forwarding the update edit list to the others of the set of distributed multimedia assets; and

a fifth means coupled to the fourth means for modifying each of the others of the set of distributed multimedia assets based upon the forwarded update edit list.

14. In a distributed network, an apparatus as recited in claim 11, further comprising:

a sixth means coupled to the first means for generating a resultant image corresponding to the modified multimedia asset wherein the resultant image is formed of a digital negative of the particular one of the set of multimedia assets

and a corresponding full edit list, wherein the full edit list represents all modifications made to the digital negative.

15. In a distributed network, an apparatus as recited in claim 12, wherein the automatically synchronizing comprises:

a seventh means coupled to the first means for replacing each of the others of the set of distributed multimedia assets with the resultant image.

16. In a distributed network, an apparatus as recited in claim 12, wherein the multimedia asset is a digital image.

17. In a distributed network, an apparatus as recited in claim 16, wherein the digital image is one of a plurality of associated digital images.

18. In a distributed network, an apparatus as recited in claim 17, wherein the plurality of associated digital images take the form of an album.